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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of : Customer Number: 46322
Ciprian AGAPI, et al. : Confirmation Number: 5087
Application No.: 10/715,316 : Group Art Unit: 2626
Filed: November 17, 2003 : Examiner: Abul K. Azad
For: METHOD AND SYSTEM FOR DEFINING STANDARD CATCH STYLES FOR
SPEECH APPLICATION CODE GENERATION

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed February 1, 2008, wherein Appellants appeal from the Examiner's rejection of claims 1-29.

I. REAL PARTY IN INTEREST

This application is assigned to International Business Machines Corporation by assignment recorded on November 17, 2003, at Reel 014715, Frame 0022.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals and interferences.

III. STATUS OF CLAIMS

Claims 1-29 are pending in this Application and have been two-times rejected. It is from the multiple rejections of claims 1-29 that this Appeal is taken.

IV. STATUS OF AMENDMENTS

The claims have not been amended subsequent to the imposition of the Final Office Action dated November 1, 2007 (hereinafter the Final Office Action).

V. SUMMARY OF CLAIMED SUBJECT MATTER

Referring to Figures 1, 2 and 3 and also to independent claim 11, a system for defining standard catch styles used in generating speech application code for managing catch events resulting from a system prompt is disclosed (lines 1-5 of paragraph [0007]). The system can include an interface that may be presented to a programmer or application developer that allows him or her to select one of a number of different catch "styles" where each "style" provides a different level of complexity with regard to preparing the system's audio response played in a typical dialog turn (lines 7-13 of paragraph [0007]). A dialog turn, in this case, is initiated upon the occurrence of a standard catch event, where a standard catch event in an interactive voice application is defined as user requests for help, or a no-input or no-match event (lines 1-3 of paragraph [0002] and lines 11-14 of paragraph [0011]).

Referring to Figures 1, 2 and 3 and also to independent claims 1 and 11, a method (and machine readable storage apparatus for implementing the method) for defining standard catch styles used in generating speech application code for managing catch events resulting from a

system prompt is disclosed (lines 1-4 of paragraph [0008]). The method includes presenting a style-selection menu that allows for selection of one or more catch styles (lines 4-6 of paragraph [0008]). Each catch style represents a system response to a catch event, where the catch style is selected from the style-selection menu (lines 6-9 of paragraph [0008]). For each selected catch style, the system prepares a response for each catch event (lines 9-10 of paragraph [0008]). is disclosed (lines 1-4 of paragraph [0018]).

VI. GROUNDS OF REJECTIONS TO BE REVIEWED ON APPEAL

1. Claims 1-29 have been rejected under 35 U.S.C. § 102(b) for anticipation based upon United States Patent No. 6,173, 266 to Marx et al., (hereinafter Marx).

VII. THE ARGUMENT

THE REJECTION OF CLAIMS 1-29 UNDER 35 U.S.C § 102 FOR ANTICIPATION BASED UPON MARX

For the convenience of the Honorable Board in addressing the rejections, claims 2-10, and 20-29 stand or fall together with claim 1, , and claims 12-19 stand or fall together with claim 11.

On pages 2-13 of the Final Office Action, the Examiner asserted that Marx discloses the invention corresponding to that claimed. The Appellants respectfully traversed this rejection.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference¹. Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art and that such existence would be recognized by one having ordinary skill in the art². As part of this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the meaning of the elements in light of the specification and prosecution history, and (c) identify corresponding elements disclosed in the allegedly anticipating reference.³ This burden has not been met.

Claims 1 and 20

Exemplary claim 1 recites as follows:

1. A method of defining standard catch styles used in generating speech application code for managing catch events, the method comprising the steps of:
 - presenting a style-selection menu that allows for selection of one or more catch styles, each catch style corresponding to a system response to a catch event, the catch event comprising at least one event in which a user entry is not understood occurring during a dialog turn, the event being selected from the group consisting of a user request for help, a non-input entry, and a non-matching entry; and,
 - upon selection of a catch style, preparing the system response for each catch event.

As noted in previous responses to the Examiner's asserted rejections, Claims 1 and 11 require by the plain language of each claim that a style-selection menu that allows for selection

¹ In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

² See In re Spada, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

³ Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984)

of one or more catch styles; each catch style corresponding to a system response to a catch event, the catch event comprising at least one event in which a user entry is not understood occurring during a dialog turn and upon selection of a catch style, and preparing the system response for each catch event must be presented.

On page 2 of the second Final Office Action, the Examiner erroneously asserts that that "Fig. 9; 930 Features and Fig. 11; 1100 Features input box" and corresponding text of column 18, lines 17 through 29 of Marx teaches the claimed a style-selection menu that allows for selection of one or more catch styles; each catch style. corresponding to a system response to a catch event. The entirety of column 18, lines 17 through 29 is reproduced herein for the convenience of the Honorable Board:

Selecting Features 930 from the window of FIG. 9 opens a window such as that illustrated in FIG. 11, displaying information about the various features that may be enabled in a specified Dialogue Module instance 850. The features shown in FIG. 11 include an initial prompt, whether to enable "barge-in" handling, setting a barge-in threshold (how loud the caller must speak to enable barge-in handling), and whether to enable Beep After Prompt (playing a beep after the prompt to signal caller to speak). Parameters for these features are initially set based on configuration information provided in the Baseline 820 and System 830 Libraries, but may be overridden by parameters entered by a developer in boxes 1110-1040.

Thus, no discussion of a "catch event" can be found in connection with Figures 9 and 11. On page 10 of Appellants response to the First Office Action, Appellants made the following argument.

In Marx, no such response to a "catch event" is provided. Rather, in Marx, specifically, Figures 9 and 11 and the accompanying text of column 18, lines 17 through 29, only a dialog of features which can be enabled for a module instance is described. Those features include barge in threshold and beep after prompt, to name a couple. As the catch event is missing from the

Marx reference, the Marx reference fails to disclose each and every claim element of claims 1 and 20

Appellants amended claims 1, 11 and 20 to expressly define the term "catch event". More specifically, Appellants amended claims 1, 11 and 20 to include "the catch event comprising at least one event in which a user entry is not understood occurring during a dialog turn, the event being selected from the group consisting of a user request for help, a non-input entry, and a non-matching entry." It will be clear to the Honorable Board that Fig. 9; 930 Features and Fig. 11; 1100 Features input box" and corresponding text of column 18, lines 17 through 29 of Marx fails to teach the claim invention.

Accordingly, the Examiner has failed to designate the teaching in Marx being relied upon to state the rejection. In this regard, the Examiner's rejection under 35 U.S.C. § 102 fails to comply with 37 C.F.R. § 1.104(C). Thus, as it will be clear to the Honorable Board, fails as a reference to anticipate the claimed invention.

Claim 11

Claim 11 also recites in part:

an interface having a style-selection template for selecting one of one or more catch styles, wherein each catch style corresponds to a system response to a catch event, the catch event comprising at least one event in which a user entry is not understood occurring during a dialog turn, the event being selected from the group consisting of a user request for help, a non-input entry, and a non-matching entry

Accordingly the arguments made with respect to claims 1 and 20 are incorporated herein.

Appellants, therefore, respectfully submit that the imposed rejection of claim 1-29 under 35 U.S.C. § 102 for anticipation based upon Marx fails to comply with 37 C.F.R. § 1.104(C). Thus, as it will be clear to the Honorable Board, Marx and fails as reference to sufficiently establish a *prima facie* case of anticipation.

Conclusion

Based upon the foregoing, Appellants respectfully submit that the Examiner's rejections under 35 U.S.C. § 102 is not viable. Appellants, therefore, respectfully solicit the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. § 102.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-3839, and please credit any excess fees to such deposit account.

Date: April 01, 2008

Respectfully submitted,

/Steven M. Greenberg/
Steven M. Greenberg
Reg. No.: 44,725
Adam C. Underwood
Reg. No.: 45,169
Customer Number 46322
Attorney for Applicant(s)
Carey, Rodriguez, Greenberg & Paul, LLP
950 Peninsula Corporate Circle, Suite 3020
Boca Raton, FL 33487
Tel: (561) 922-3845
Fax: (561) 244-1062

VIII. CLAIMS APPENDIX

1. A method of defining standard catch styles used in generating speech application code for managing catch events, the method comprising the steps of:

presenting a style-selection menu that allows for selection of one or more catch styles, each catch style corresponding to a system response to a catch event, the catch event comprising at least one event in which a user entry is not understood occurring during a dialog turn, the event being selected from the group consisting of a user request for help, a non-input entry, and a non-matching entry; and,

upon selection of a catch style, preparing the system response for each catch event.

2. The method of claim 1, wherein the step of preparing the system response for each catch event comprises:

presenting one or more text fields for receiving a contextual message, the contextual message entered in each text field corresponding to a new audio message to be played in response to the particular catch event if the selected catch style requires playing of the new audio message in response to a particular catch event.

3. The method of claim 2, wherein the entered contextual message is different for each catch event.

4. The method of claim 2, wherein the entered contextual message is the same for each catch event.

5. The method of claim 1 wherein the step of preparing the system response for each catch event comprises replaying a system prompt if the selected catch style does not require playing of a new audio message in response to a particular catch event.
6. The method of claim 1 wherein the style-selection menu further includes a field reciting details about the one or more catch styles.
7. The method of claim 1 wherein the style-selection menu further includes a field identifying a final action to be taken if the catch event is not corrected by a user.
8. The method of claim 1, wherein the style-selection menu further includes a control for inserting variables in the contextual message.
9. The method of claim 1, wherein the style-selection menu further includes controls for inserting programmed pauses of specified duration values in the contextual message.
10. The method of claim 1, wherein the style-selection menu further includes a control to enable acceleration of a system timeout upon occurrence of a help catch event.
11. A system for managing catch events in a speech application, the system comprising a computer, the computer including an interface having a style-selection template for selecting one of one or more catch styles, wherein each catch style corresponds to a system response to a catch event, the catch event comprising at least one event in which a user entry is not understood

occurring during a dialog turn, the event being selected from the group consisting of a user request for help, a non-input entry, and a non-matching entry.

12. The system of claim 11, wherein the interface further comprises one or more text fields for receiving a contextual message, wherein the contextual message entered in each text field corresponds to a new audio message to play in response to the particular catch event.

13. The system of claim 12, wherein the contextual message is different for each catch event.

14. The system of claim 12, wherein the contextual message is the same for each catch event.

15. The system of claim 11, wherein the interface further includes a field reciting details about the one or more catch styles.

16. The system of claim 11 wherein the interface further includes a field identifying a final action to be taken if the catch event is not corrected by a user.

17. The system of claim 11, wherein the style-selection interface further includes a control for inserting variables in the contextual message.

18. The system of claim 11, wherein the style-selection interface further includes controls for inserting programmed pauses of specified duration values in the contextual message.

19. The system of claim 11, wherein the style-selection interface further includes a control to enable acceleration of a system timeout upon occurrence of a help catch event.

20. A machine readable storage medium storing a computer program which when executed defines standard catch styles used in generating speech application code for managing catch events, the computer program performing a method comprising the of:

presenting a style-selection menu that allows for selection of one or more catch styles, wherein each catch style corresponds to a system response to a catch event, the catch event comprising at least one event in which a user entry is not understood occurring during a dialog turn, the event being selected from the group consisting of a user request for help, a non-input entry, and a non-matching entry; and,

preparing the system response for each catch event upon selection of a catch style.

21. The machine readable storage medium of claim 20, wherein the step of preparing the system response for each catch event comprises:

presenting one or more text fields for receiving a textual message, wherein the contextual message entered in each text field corresponds to the new audio message that will be played in response to the particular catch event if the selected catch style requires playing of a new audio message in response to a particular catch event.

22. The machine readable storage medium of claim 20, wherein the entered contextual message is different for each catch event.

23. The machine readable storage medium of claim 20, wherein the entered contextual message is the same for each catch event.
24. The machine readable storage medium of claim 20, wherein the step of preparing the system response for each catch event comprises replaying a system prompt if the selected catch style does not require playing of a new audio message in response to a particular catch event.
25. The machine readable storage medium of claim 20, wherein the style-selection menu further includes a field reciting details about the one or more catch styles.
26. The machine readable storage medium of claim 20, wherein the style-selection menu further includes a field identifying a final action to be taken if the catch event is not corrected by a user.
27. The machine readable storage medium of claim 20, wherein the style-selection menu further includes a control for inserting variables in the contextual message.
28. The machine readable storage medium of claim 20, wherein the style-selection menu further includes controls for inserting programmed pauses of specified duration values in the contextual message.

29. The machine readable storage medium of claim 20, wherein the style-selection menu further includes a control to enable acceleration of a system timeout upon occurrence of a help catch event.

IX. EVIDENCE APPENDIX

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellants in this Appeal, and thus no evidence is attached hereto.

X. RELATED PROCEEDINGS APPENDIX

Since Appellants are unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.